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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/020,202	02/19/93	GOLDMAN	B 7019-00001

PRESCOTT EXAMINER

12M2/0323

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ART UNIT	PAPER NUMBER
1204	3

DATE MAILED: 03/23/94

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), 12 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- ☒ Notice of References Cited by Examiner, PTO-892.
- ☒ Notice re Patent Drawing, PTO-948.
- ☒ Notice of Art Cited by Applicant, PTO-1449.
- ☐ Notice of Informal Patent Application, Form PTO-152.
- ☐ Information on How to Effect Drawing Changes, PTO-1474.
- ☐

Part II SUMMARY OF ACTION

- ☒ Claims 1-36 are pending in the application.
Of the above, claims _____ are withdrawn from consideration.
- ☐ Claims _____ have been cancelled.
- ☐ Claims _____ are allowed.
- ☒ Claims 1-36 are rejected.
- ☐ Claims _____ are objected to.
- ☐ Claims _____ are subject to restriction or election requirement.
- ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
- ☐ Formal drawings are required in response to this Office action.
- ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).
- ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____ has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
- ☐ The proposed drawing correction, filed on _____, has been ☐ approved. ☐ disapproved (see explanation).
- ☐ Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.
- ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
- ☐ Other

EXAMINER'S ACTION

1. The following is a quotation of the first paragraph of 35 U.S.C. § 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification is objected to under 35 U.S.C. § 112, first paragraph, as failing to provide an enabling disclosure and failing to present a best mode of carrying out the invention. The disclosure is felt to be speculative at best - alleging improved hair growth results using amounts and mixtures of known agents wherein the information is given in such wide ranges that experimentation is necessary. The specification appears to lack any specific explanation or exemplification regarding Applicant's effective amounts and methods for the treatment of scalps to promote hair growth.

The general information given by the examples and graphs seems cloudy because there is no clear view of what was done to each different scalp if each individual. Instead Applicant presents times, temperatures, etc. as though all the subjects were the same, giving one result for all. Such a broad approach is inadequate when specific examples are needed to show any unexpected improvement over the prior art and eliminate the need for undue experimentation. As the instant disclosure is presented experimentation would be necessary to practice the invention because of the limited guidance provided in the application. With

all due respect to the voluminous articles cited by Applicant - the articles show that the agents chosen by Applicant are known for scalp treatment; but they do not provide the specific information necessary to practice the instant method given the contemporary knowledge of unpredictability in the relevant art.

2. Claims 1-36 are rejected under 35 U.S.C. § 112, first paragraph, for the reasons set forth in the objection to the specification.

3. Claims 1-36 are rejected under 35 U.S.C. § 103 as being unpatentable over GIBSON. These compounds, as ingredients in hair-growth compositions, are old as exemplified by the patent, Applicant's own disclosure, or the articles cited by Applicant. It is felt that to speculate on the utility of various mixtures of these known compounds would have been obvious to a skilled artisan; and these mixtures would not give unexpected results since the effects of each alone is known. The motivation for combining such known "hair-growth" compounds is given in the teachings of the patent that deals with just such combinations of compounds to make a suitable composition.


4. The CHIDSEY, III ET AL patent is cited as of interest to show another example of a composition using compounds for hair growth.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Prescott whose telephone number is (703) 308-4631.

However, any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1235.

Serial Number: 08/020,202
Art Unit: 1204

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ARTHUR C. PRESCOTT
PRIMARY EXAMINER
GROUP ART UNIT 1204

A.C.Prescott
March 17, 1994